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7 ERIC DAVID MILLS,  
8 Plaintiff,  
9 v.  
10 CITY OF PALO ALTO, et al.,  
11 Defendants.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Case No. [23-cv-03330-JSW](#)

**ORDER DENYING LEAVE TO FILE  
AMENDMENT TO COMPLAINT;  
GRANTING LEAVE TO FILE  
AMENDED COMPLAINT; DENYING  
MOTION TO DISMISS**

Re: Dkt. No. 12, 14, 17

12 Plaintiff, a California prisoner proceeding pro se, filed this civil rights action under 42  
13 U.S.C. § 1983. The complaint was ordered served upon defendants because the Court found that  
14 it stated cognizable claims, when liberally construed. Plaintiff has filed a proposed “amendment”  
15 to the complaint. Amendments to complaints are not allowed because the case cannot effectively  
16 proceed based upon piecemeal complaints set forth in multiple pleadings. Accordingly, leave to  
17 file an amendment to the complaint is DENIED.

18 If Plaintiff wishes to amend his complaint, he must file a whole new amended complaint  
19 that includes all of the claims and Defendants he wishes to include in this case, including any  
20 claims from the original complaint that he still wishes to pursue and that the Court found  
21 cognizable. Plaintiff shall file an amended complaint within **twenty-eight (28) days from the**  
22 **date this order is filed.** The amended complaint **must** include the caption and civil case number  
23 used in this order (No. C 23-3330 JSW (PR)) and the words “COURT-ORDERED FIRST  
24 AMENDED COMPLAINT” on the first page. Because an amended complaint completely  
25 replaces the original complaint, *see Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992),  
26 Plaintiff may not incorporate material from the original by reference; he must include in his  
27 amended complaint all the claims he wishes to pursue. Failure to amend within the designated  
28 time and in accordance with this order will result in this case proceeding based solely upon the

1 claims in the original complaint and reinstatement of Defendants' motion to dismiss (see below);  
2 further leave to amend will not be allowed. A reasonable extension of this deadline will be  
3 allowed if Plaintiff shows good cause for it and requests the extension before the deadline passes.

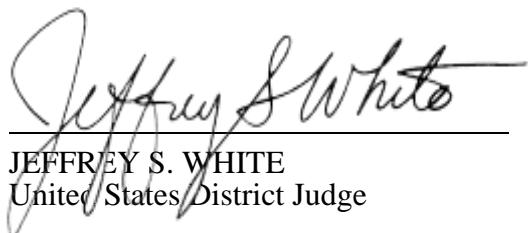
4 Defendants filed a motion to dismiss the original complaint. Because Plaintiff seeks to  
5 amend the complaint, their motion may become moot. Accordingly, the motion is DENIED  
6 without prejudice to refiling or reinstatement if Plaintiff fails to file an amended complaint.

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8 **IT IS SO ORDERED.**

9 Dated: September 12, 2023

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12 JEFFREY S. WHITE  
13 United States District Judge